



DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

25 JUL 2006

In re Application of: EINBRODT, Wolfgang, et al :
U.S. Application No.: 10/534,304 : COMMUNICATION
PCT No.: PCT/DE2003/003739 :
International Filing Date: 12 November 2003 :
Priority Date: 12 November 2002 :
Attorney's Docket No.: D4695-00133 :
For: MONOLITHICALLY INTEGRATED :
VERTICAL PIN PHOTODIODE USED :
IN BICMOS TECHNOLOGY :

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371.

BACKGROUND

On 12 November 2003, applicants filed international application PCT/DE2003/003739. The application claimed a priority date of 12 November 2002 and designated the United States. On 27 May 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office ("USPTO"). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 12 May 2005.

On 09 May 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a purported translation into English of the international application.

On 13 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an acceptable translation of the international application into English and the surcharge for filing such translation later than thirty months after the priority date were required. The Notification indicated that the previously filed translation was defective because: "The text in the drawings has not been properly translated."

On 15 December 2005, applicants filed a response to the Notification Of Missing Requirements that included payment of the required processing fee. The submission was not, however, accompanied by translated drawings.

On 23 January 2006, the DO/EO/US mailed a "Notification Of Defective Response" (Form PCT/DO/EO/916) indicating that applicants' 13 November 2005 response was defective for failure to include the required translated drawings.

On 27 February 2006, applicants filed a response to the Notification Of Defective Response that included a revised copy of the drawings, considered herein.

DISCUSSION

MPEP § 1893.01(d) states the following regarding translated drawings in a U.S. national stage application: "A translation of words contained in the drawings must be furnished either in the form of new drawings or in a form of a copy of the original drawings with the translation pasted on the original text matter. See PCT Rule 49.5(d)."

The replacement drawings submitted by applicants on 27 February 2006 included a revised version of "Table 1" in which the German language text was properly replaced by English text. However, revised "Figure 1" did not include a new drawing with the German text replaced with English text or "a copy of the original drawings with the translation pasted on the original text matter." Rather, applicants provided a copy of original drawing with a translation key for the German language text added at the bottom of the figure. The revised "Figure 1" is therefore not in the format required by MPEP § 1893.01(d) and PCT Rule 49.5(d) and, as such, is not considered a proper translation of this drawing.

Based on the above, applicants have failed to file a proper translation into English of the international application (specifically, "Figure 1" of the application) as required in the Notification Of Missing Requirements mailed 13 November 2005 and the Notification Of Defective Response mailed 23 January 2006. The time period for responding to such Notifications has now expired. The application is therefore abandoned.

CONCLUSION

The present application is **ABANDONED** for failure to file a timely and complete response to the Notification Of Missing Requirements mailed 13 November 2005 and the Notification Of Defective Response mailed 23 January 2006.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this Communication, including the mailing of a Notification Of Abandonment (Form PCT/DO/EO/909).



Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459